

Appendix B
ASSOCIATED APPLICABLE LAWS

Disclaimer: *The following pertain only to Federal statutes. There are likely State and/or Local permitting agencies that should be contacted regarding any additional requirements.*

Section 7, Endangered Species Act: 135 days for formal consultation; begin formal consultation at Checkpoint #3; informal can be done anytime prior. Responsibility of the lead Federal agency (FHWA) to initiate formal consultation. Informal consultation can be done by FHWA's designee (Project Sponsor) *typically beginning at the Programming Process.*

- Consultation is with the U.S. FWS for all listed species except marine species and anadromous fish.
- Consultation is with the NMFS for listed marine species and anadromous fish.

Section 106, National Historic Preservation Act: Begin consultation with circulation of FEIS or sooner if adequate studies completed. Responsibility of the lead Federal agency to initiate (FHWA).

Section 401, Water Quality Certification: Begin with final COE permit application by submitting necessary information to Regional Water Quality Control Board (State of California); 60 days for certification. (Note: Waivers are no longer being issued.)

Coastal Zone Management Act: Through the California Coastal Commission and S.F. Bay Conservation and Development Commission, a permit is required and the work must be consistent with California's Coastal Zone Management Plan. Begin application when complete CWA Section 404 permit submitted to COE (?).

Farmland Protection Policy Act: The Natural Resources Conservation Service fills out Form AD 1006 that identifies prime and unique farmland and other farmland of Statewide or local importance. This should be requested of the Service once alternatives are identified.

Fish and Wildlife Coordination Act: Requires the lead agency (FHWA) to consider and address comments by the U.S. Fish and Wildlife Service and the California Department of Fish and Game. Initiation would be during the scoping process and continuing through comments on the FEIS.

Magnuson-Stevens Fishery Conservation and Management Act: Requires the lead agency (FHWA) to consult with the National Marine Fisheries Service if adverse impacts to Essential Fish Habitat. Covers virtually all coastal waters and inland waters below major dams or significant waterfalls. Consultation should begin no later than at distribution of the DEIS.

Migratory Bird Treaty Act: Prohibits the take of migratory birds, body parts (e.g., feathers), eggs or occupied nests. A permit from the U.S. Fish and Wildlife Service is required for such a take. If take cannot be avoided by working in the non-nesting habitat, using mechanical/physical means to discourage nesting, etc., a permit should be sought from the Service as soon as alternatives are identified.

Rivers and Harbors Act of 1899: COE Section 10 permit for any work in navigable waters. Initiate when submitting complete CWA Section 404 permit.

Wild and Scenic Rivers Act: Administered by U.S. Department of Agriculture (e.g., Forest Service,) and U.S. Department of the Interior (e.g., Park Service, Fish and Wildlife Service, Bureau of Land Management, etc.) and is intended to preserve free-flowing rivers and maintaining water quality of designated and study rivers. Consultation should be done as early as possible in the process with the appropriate "Keeper of the River".

OTHER LAWS THAT MAY BE APPLICABLE IN CERTAIN CIRCUMSTANCES:

Comprehensive Environmental Response, Compensation and Liability Act: Concerns hazardous wastes. Should consult with U.S. Environmental Protection Agency and State counterpart as soon as contaminants identified.

Marine Protection, Research and Sanctuaries Act (Marine Sanctuaries): Administered by Department of Commerce.

Marine Protection, Research and Sanctuaries Act (Ocean Dumping): Administered by the U.S. Environmental Protection Agency.

Resource Conservation and Recovery Act: Concerns hazardous wastes. Should consult with U.S. Environmental Protection Agency and State counterpart as soon as contaminants identified.